

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 00-07

WHEREAS, Pink Shell Resort has filed a request to amend the Commercial Planned Development (CPD – Pink Shell Bay Side) to remove 47 units and then amend the Planned Unit Development (Pink Shell Gulf side) to add 47 units to a 45 unit building, increasing the height of the building from 6 stories over parking to 9 stories over recreation area and lobby/administration area.; and,

WHEREAS, the subject property is located at 275 Estero Blvd., Fort Myers Beach, Florida, and is described more particularly as:

LEGAL DESCRIPTION: A tract or parcel of land lying in Section 24, Township 46 South, Range 23 East, Lee County, Florida, more particularly described in Exhibit “A” attached hereto; and,

WHEREAS, the applicant has indicated the property’s current STRAP number is: 24-46-23-W1-0070.0350; and,

WHEREAS, at public hearing the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons; and,

WHEREAS a hearing was held and the council considered the following criteria, whenever applicable:

- a. Whether there exist changed or changing conditions that make approval of the request appropriate.
- b. The testimony of any applicant.
- c. The recommendation of staff.
- d. The testimony of the public.
- e. Whether the request is consistent with the goals, objectives, policies and intent of the Town Plan.
- f. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- g. Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.
- h. Whether the request will be compatible with existing or planned uses.
- i. Whether the request will cause damage, hazard, nuisance or other detriment to persons or property.
- j. Whether a requested use will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.

NOW THEREFORE BE IT RESOLVED THAT THE APPLICATION IS APPROVED  
TO:

- (a) amend the Commercial Planned Development (Pink Shell Bay Side) to remove 47 units; and,
- (b) to amend the Planned Unit Development (Pink Shell gulf Side) to add 47 units to a 45 unit building, increasing the height of the building from 6 stories over parking to 9 stories over a recreation area and lobby/administration area;

SUBJECT TO THE FOLLOWING conditions and requirements that are necessary for the protection of the health, safety, comfort, convenience and welfare of the general public and that are reasonably related to the request:

the conditions numbers 1 though 10 as found on page 2 and page 3 of the staff report dated December 7, 1999 (and attached hereto as Exhibit "B") except that condition #1 on page 2 is amended to change the date from November 30, 1999 to December 22, 1999 and the title is changed from "Conceptual Landscape Plan" a "Master Concept Plan". The Master Concept Plan is attached as Exhibit "C".

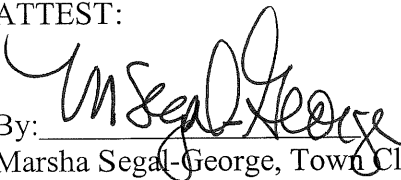
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Anita T. Cereceda	aye
Daniel Hughes	absent
John Mulholland	aye
Garr Reynolds	nay
Ray Murphy	aye

APPLICATION DULY GRANTED this 10th day of January, 2000.

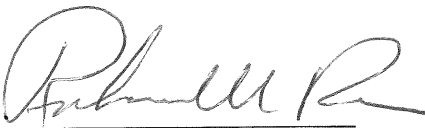
ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Marsha Segal-George, Town Clerk

By:   
John Mulholland, Mayor

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney

**EXHIBIT "A"**  
**PINK SHELL RESORT**  
**95-01-034.03Z 03.01**

Lots 2, 3, 4, 5, 6, 8, 9 and 10 of GULFSHORE, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court in Plat Book 9, Page 88, Public Records of Lee County, Florida;

Lots 34, 35 and 36 and Northwesterly 25 feet of Lot 33 of Unit No. 4, ISLAND SHORES, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court in Plat Book 9, Page 37, Public Records of Lee County, Florida;

Lots 39, 40, 41 and 42, ISLAND SHORES CLUB SECTION, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court in Plat Book 9, Page 41, Public Records of Lee County, Florida;

**LESS AND EXCEPT THE FOLLOWING:**

Tract or parcel of land lying in Section 24, Township 46 South, Range 23 East, Lee County, Florida, also being part of Lots 2, 3, 4, 8 and 9 of GULFSHORE SUBDIVISION, Plat Book 9, Page 88, also part of Lots 33 and 34 of Island Shores Unit No. 4, Plat Book 9, Page 37 of the Public Records of Lee County, Florida which is described as follows:

Beginning at the Northeasterly corner of Lot 2 of said GULFSHORE SUBDIVISION; thence North 42 degrees 07'25" West for 77.00 feet along the Southwesterly right-of-way of Gulfshore Court; thence North 47 degrees 52'35" East for 76.76 feet along the Northwesterly right-of-way of Gulfshore Court; thence North 42 degrees 07'25" West for 24.00 feet; thence South 47 degrees 52'35" West for 2.50 feet; thence North 42 degrees 07'25" West for 43.54 feet; thence North 47 degrees 52'35" East for 2.50 feet; thence North 42 degrees 07'25" West for 50.00 feet; thence North 40 degrees 31'28" East for 14.49 feet; thence North 50 degrees 19'25" West for 27.57 feet; thence North 59 degrees 22'01" West for 20.23 feet; thence South 39 degrees 40'35" West for 31.50 feet; thence South 59 degrees 17'28" East for 2.30 feet; thence South 30 degrees 21'33" West for 15.24 feet; thence North 58 degrees 42'37" West for 3.31 feet; thence South 29 degrees 58'13" West for 29.45 feet; thence South 48 degrees 42'33" West for 77.19 feet; thence South 40 degrees 09'10" East for 31.53 feet; thence South 07 degrees 36'21" East for 57.08 feet; thence South 47 degrees 52'35" West for 297 feet more or less to mean high water line of the Gulf of Mexico; thence Southeasterly along said mean high water line for 150 feet more or less to the intersection with a line that bears South 47 degrees 52'35" West from the Point of Beginning; thence North 47 degrees 52'35" East for 410 feet more or less along the Southeasterly lot line of Lot 2 of said Gulfshore Subdivision to the Point of Beginning.

In Section 24, Township 46 South, Range 23 East, Lee County, Florida:

Lots 30 through 32, inclusive, Block "D", ISLAND SHORES, Unit 4, a subdivision as recorded in Plat Book 9, Page 37, and Lots 33, 34, 36, 38 and 39, inclusive, Block "D", ISLAND SHORES CLUB SECTION, a subdivision lying in Section 24, Township 46 South, Range 23 East, Lee County, Florida, as recorded in Plat book 9, Page 41 of the Public Records of Lee County, Florida and Lot 29, Block D, Unit No. 4, ISLAND SHORES, according to the map or plat thereof on file on recorded in the Office of the Clerk of the Circuit Court in Plat Book 9, Page 37, excepting therefrom begin at a corner common to Lots 28 and 29, Block D, of that certain subdivision known as Unit No. 4, ISLAND SHORES, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 9, Page 37 on the Northeasterly side of Estero Boulevard, run Northwesterly along the Northeasterly side of Estero Boulevard for 50 feet; thence Northeasterly and perpendicular to the Northeasterly side of Estero Boulevard to the waters of the Mantanzas Pass, thence Southeasterly along the waters of the Mantanzas Pass to an intersection with the line common to said Lots 28 and 29; thence Southwesterly with the line common to said Lots 28 and 29; thence Southwesterly with the line common to said Lots 28 and 29; thence Southwesterly along said common line to the Point of Beginning.

## II. RECOMMENDATION:

Staff recommends **APPROVAL** of the Applicant's request a) to amend the Commercial Planned Development (Pink Shell Bay Side) to remove 47 units and request b) to amend the Planned Unit Development (Pink Shell Gulf Side) to add 47 units to a 45 unit building, increasing the height of the building from 6 stories over parking to 9 stories over recreation area and lobby/administration area with the following conditions:

### Conditions

1. The development of this project must be consistent with the one page Master Concept Plan entitled "Pink Shell PUD and CPD Conceptual Landscape Plan" stamped received November 30, 1999, except as modified by the conditions below.
2. This development must comply with all requirements of the Town of Fort Myers Beach LDC at time of local development order approval, except as may be granted by deviation as part of this planned development.
3. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.
4. Within 90 days of the approval of the requested amendment, the applicant must have approved and recorded a document that assures binding permanent restrictions are placed on the 3.2 acre bay-side property to assure all development rights of hotel/motel units and dwelling units have been transferred to the gulf-side parcel, to guarantee the permanence of the transfer. The document will contain language that assures the view corridor will be maintained in perpetuity with a visual, ecological and educational interpretive walk way.
5. Treatment of the surface water run-off from the parking lots located on the bay-side parcel, will be in a natural system created as a flow-way detention system located in the areas shown to be planted with sod on the MCP. This system will be planted with indigenous native plant materials sufficient to mimic a natural system. The system design and type of plantings will be approved at the time of local development order.
6. A landscaped buffer that is no less than 10 feet wide will be located on the south property line of the bay-side parcel and will be incorporated into the park. The buffer will contain no less than 5 trees and 14 shrubs per 100 linear feet. Plant materials used will be indigenous native vegetation.
7. To improve environmental conditions along the shoreline of the Estero Bay Aquatic Preserve the applicant will place rip-rap rock along the shoreline of the bay-side parcel.
8. Landscaping for the gulf-side parcel, along Estero Boulevard, will mimic the design of the landscaped area on the bay-side of Estero Boulevard by meandering into the right-of-way. Shrubs located in the landscaped area, between the parking lot and Estero Boulevard, will be maintained at a height of no less than 36 inches. Trees will be increased to no less than 5 per 100 linear feet.

9. Landscaping located between the parking lots and Estero Boulevard on the bay-side parcel, will be maintained at a height of no less than 36 inches.
10. The dune restoration plan will be approved at the time of local development order and will be subject to the following conditions:
  - a. Location of the restoration area will be generally as shown on the MCP.
  - b. Plant species will consist of a mix of sea oats, beach panic grass, railroad vine and beach sunflower in lines planted at 1.5 feet on center.
  - c. The existing pool will be demolished after the new pool is completed.
  - d. To allow the plants to become established, the vegetation will be temporarily fenced with ropes and bollards or a similar fencing. Orange construction fence is prohibited.
  - e. No more than two winding pathways will be permitted to provide beach access. One may be at the northern end of the property and a second adjacent to the existing pool bar. The pathways will be delineated with ropes or bollards.
  - f. The beach vegetation project will be coordinated with and integrated with the Town's beach restoration project.

#### Findings and Conclusions:

Based upon an analysis of the application and the standards for review of planned development rezonings, staff makes the following findings and conclusions:

1. The applicant has proven entitlement to the amendment by demonstrating compliance with the Town of Fort Myers Beach Comprehensive Plan, the Land Development Code, and other applicable codes and regulations.
2. With the recommended conditions the requested amendment:
  - a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
  - b) is consistent with the densities, intensities and general uses set forth in the Town of Fort Myers Beach Comprehensive Plan;
  - c) is compatible with existing or planned uses in the surrounding area; and
  - d) will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.

4. Urban services as defined by the Lee Plan, are or will be, available and adequate to serve the proposed land use.
5. The proposed use or mix of uses is appropriate at the subject location.
6. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

### III. BACKGROUND INFORMATION AND ANALYSIS:

#### Introduction/Synopsis

Requested is an amendment to the Pink Shell Resort Planned Unit Development (PUD)/Commercial Planned Development (CPD). The amendment proposes to transfer 47 units from the bay-side CPD to a 45 unit 6-story building on the gulf-side PUD; increasing the height of the building to 9 stories over recreation area and lobby/administration area. The units eliminated in the CPD would be replaced by a valet parking lot and an interpretive park with a walkway. The specific issue raised by this amendment are consistent with the Town of Fort Myers Beach Comprehensive Plan which will be discussed in detail in this report.

Pink Shell Resort has a complicated zoning history. A codification and summary of all approvals thru 1998 is attached as Attachment B in Administrative Amendment PUD-98-029. The rezoning to PUD was granted in 1982 when the Lee County Board of County Commissioners approved development of 182 new units in buildings not to exceed 6 stories over parking and recognized 7 existing motel units located on the bay side. Since this approval the Pink Shell Resort has benefitted from numerous PUD amendments and administrative amendments including the rezoning in 1995 of the bay-side parcel to CPD. This rezoning approved two new efficiency hotel/motel buildings, one with 42 units in a 6-story building (over parking) and the other owned by Peter Lisich for 12 units in a 4-story building (over parking). Also approved in the CPD was a 5,000 square foot building for meeting space to be used for conferences. The CPD also recognized existing development to remain which included 3 single-family cottages, 1 duplex cottage, and an existing 2-story building that houses the welcome center of the "entire" Pink Shell Resort. This building includes administrative offices, a small convenience store and a restaurant. The commercial uses are limited to use by the guests of the hotel and the following square footage of each:

Administrative Office Space	3,500 sq. ft.
Restaurant/Retail area	2,500 sq. ft.
Outdoor Deli Deck	1,050 sq. ft.
Conference Center	5,000 sq. ft.
Bait and Tackle Shop	<u>150 sq. ft.</u>
	12,200 sq. ft. total

The CPD was last amended in February of this year by eliminating 7 units proposed in the Lisich building.

